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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,196

12/02/2003

Robert Buchanan

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EXAMINER

BROWN, ALVIN L

ART UNIT

PAPER NUMBER

3622

NOTIFICATION DATE

DELIVERY MODE

03/05/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/727,196	<b>Applicant(s)</b> BUCHANAN ET AL.	
	<b>Examiner</b> ALVIN L. BROWN	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12-02-2003</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. The following is a non-final, First Office Action on the merits. Claims 1- 42 are pending.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-3, 7-9, 12-17, 20-24, 26-31, 33-38, 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Riet (20070260521) in view of Kaneko et al., (20020077899).**

**As per claim 1, 41, 42,** Van Der Riet discloses a method comprising:

providing one or more advertisements capable of being played on the one or more computers (paragraph s [0030-0033]); and

providing access to the media content upon playing the one or more advertisements in their entirety, wherein a fee for the media content is received from a sponsor in exchange for a user playing the one or more advertisements in their entirety before the media content is accessed (paragraphs [0030-0033]).

Van Der Riet does not explicitly disclose receiving a selection of media content from a graphical user interface, wherein the media content is configured to be downloadable onto one or more computers.

However, Kaneko discloses receiving a selection of media content from a graphical user interface, wherein the media content is configured to be downloadable onto one or more computers (paragraph [0002]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add Kaneko's downloadable media content to Van Der Riet's sponsored media content. One would be motivated to do this in order to provide sponsored media content to customers who are willing to view advertisements.

**As per claim 2**, Kaneko further discloses providing access to the media content upon playing the one or more advertisements in their entirety comprises downloading the media content after playing the one or more advertisements in their entirety (abstract, paragraph [0004]).

**As per claim 3**, Kaneko further discloses providing access to the media content upon playing the one or more advertisements in their entirety comprises downloading the media content during the same time as playing the one or more advertisements in their entirety (abstract, paragraph [0004]).

**As per claim 7**, Kaneko further discloses providing access to the media content comprises downloading the media content (abstract).

**As per claim 8**, Kaneko further discloses selection of media content comprises a plurality of individual media content selections (paragraph [0002]).

**As per claim 9**, Kaneko further discloses media content comprises any one or more of audio content, video content, text-based content, gaming content, and any

combination of audio content, video content, text-based content, and gaming content (paragraph [0002]).

**As per claim 12**, Van Der Riet further discloses the one or more advertisements are targeted for one or more user preferences, wherein the one or more advertisements are tailored to one or more user profiles (paragraph [0051]).

**As per claim 13**, Van Der Riet further discloses requiring the user to register user information before selecting the media content, wherein the user information comprises one or more user preferences and an email address (paragraphs [0017, 0019]).

**As per claim 14**, Van Der Riet further discloses the media content is selected from an independent website, wherein the independent website hosts the media content and an intermediary distributor is adapted to deliver the one or more advertisements (paragraphs [0006, 0009]).

**As per claim 15**, Van Der Riet further discloses receiving the selection of media content from a graphical user interface comprises selecting the selection of media content from an intermediary distributor, and wherein the intermediary distributor is adapted to deliver the media content and the one or more advertisements to the user (paragraphs [0006, 0009]).

**As per claim 16**, Van Der Riet further discloses an intermediary distributor receives the fee from the sponsor and compensates one or more initial owners and producers of the media content with a portion of the fee (paragraphs [0030-0033]).

**As per claim 17**, Kaneko further discloses the download of the media content is authorized by the one or more initial owners and producers of the media content (paragraph [0002]).

**As per claim 20**, Van Der Riet discloses a system comprising:

a user interface adapted to collect data from a user, wherein the collected data comprises one or more selections for downloadable media content (paragraphs [0006-0009]);

an intermediary distributor adapted to send one or more advertisements to the user (paragraphs [0030-0033]); and

a sponsor to compensate the intermediary distributor for the downloadable media content in exchange for the user playing the one or more advertisements in their entirety, wherein the user does not pay a fee to download the downloadable media content (paragraph [0030-0033]).

**As per claim 21**, Van Der Riet further discloses the intermediary distributor comprises a database adapted to store a plurality of media content and advertisements, wherein the one or more advertisements are categorized based on one or more specifications of one or more sponsors (abstract).

**As per claim 22**, Van Der Riet further discloses the intermediary distributor is further adapted to provide the downloadable media content to the user (abstract).

**As per claim 23**, Van Der Riet further discloses the intermediary distributor is further adapted to receive the one or more advertisements from any one of a sponsor and an advertiser (abstract).

**As per claim 24**, Van Der Riet further discloses an independent website, wherein the independent website is adapted to host the downloadable media content, wherein the intermediary distributor is adapted to pass one or more advertisements to the independent website, and wherein the user interacts with the independent website for downloading media content (paragraphs [0006-0009]).

**As per claim 26**, Van Der Riet further discloses the one or more advertisements are downloaded to a user's computer prior to playing (paragraphs [0022, 0306]).

**As per claim 27**, Van Der Riet further discloses the system is adapted to provide authorized downloads of the downloadable media content (paragraphs [0022, 0306]).

**As per claim 28**, Kaneko further discloses the downloadable media content comprises any one or more of audio content, video content, text-based content, gaming content, and any combination of audio content, video content, text-based content, and gaming content (paragraph [0002]).

**As per claim 29**, Van Der Riet further discloses the one or more advertisements are targeted for the user, and wherein the intermediary distributor comprises one or more tools and resources to match a user profile to cataloged advertisements in an intermediary distributor's database (abstract).

**As per claim 30**, Van Der Riet further discloses the intermediary distributor is further adapted to provide a ranking of downloadable media content to the sponsor based on a frequency of download (paragraphs [0237-0251]).

**As per claim 31**, Van Der Riet discloses a system comprising:

a second tool to enable the one or more users to register user information paragraph [0011]); and

a third tool to deliver one or more advertisements to the one or more users, wherein the authorized downloading of media content is agreed to be paid by a sponsor that requires the one or more users to play the one or more advertisements in their entirety before accessing the media content (paragraphs [0030-0033]).

Kaneko further discloses a first tool to enable the authorized downloading of media content for one or more users (paragraph [0002]).

**As per claim 33**, Kaneko further discloses the system is configured to enable the authorized downloading of media content and reduce a fee for the one or more users for the media content after the one or more users play the one or more advertisements in their entirety (abstract, paragraph [0004]).

**As per claim 34**, Kaneko further discloses the system further comprises a graphical user interface, wherein the graphical user interface is adapted to enable a user to select media content for downloading (abstract, paragraph [0004]).

**As per claim 35**, Van Der Riet further discloses comprising a fourth tool to automatically compensate one or more initial producers of the media content with a portion of the payment from the sponsor (paragraphs [0030-0033]).

**As per claim 36**, Van Der Riet further discloses a fifth tool to enable an assessment of a frequency of downloads (paragraphs [0237-0251]).

**As per claim 37**, Van Der Riet further discloses the fifth tool comprises a scale with one or more ranges of popularity, wherein the one or more ranges of popularity



comprises a number of downloads in a given time frame (paragraphs [0237-0251, 0301]).

**As per claim 38**, Van Der Riet further discloses the fifth tool further comprises one or more download parameters, wherein one or more advertisements are assigned based on the one or more ranges of popularity (paragraphs [0237-0251, 0301]).

**As per claim 40**, Van Der Riet further discloses the sponsor is charged for the authorized downloading of media content (paragraphs [0030-0033]).

4. **Claims 4-5, 18-19, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Riet (20070260521) in view of Kaneko et al., (20020077899) further in view of Donian (20040003398).**

**As per claim 4**, the Van Der Riet and Kaneko combination discloses the claimed invention as in claim 1. The combination does not disclose providing access to the media content upon playing the one or more advertisements in their entirety comprises downloading the media content before playing the one or more advertisements in their entirety, wherein the download comprises locked media content, and wherein the user is prevented from unlocking the media content until after the user plays the one or more advertisements in their entirety.

However, Donian discloses providing access to the media content upon playing the one or more advertisements in their entirety comprises downloading the media content before playing the one or more advertisements in their entirety, wherein the download comprises locked media content, and wherein the user is prevented from

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unlocking the media content until after the user plays the one or more advertisements in their entirety (paragraphs [0145-0147]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add Donian's preventing display of content until advertisement is played entirely to the combination's sponsored media content. One would be motivated to do this in order to guarantee advertisers that customers are getting exposed to advertisers ads.

**As per claim 5**, Donian further discloses providing access to the media content upon playing the one or more advertisements in their entirety comprises downloading the media content and the one or more advertisements in a package download, wherein the package download comprises locked media content, and wherein the user is prevented from unlocking the media content until after the user plays the one or more advertisements in their entirety (paragraphs [0145-0147]).

**As per claim 18**, Donian further discloses the one or more advertisements are played in streaming video format (paragraph [0191]).

**As per claim 19**, Donian further discloses the playing one or more advertisements in their entirety comprises not permitting a user to terminate the playing of the one or more advertisements until the one or more advertisements have reached the end of play (paragraphs [0145-0147]).

**As per claim 25**, Donian further discloses the one or more advertisements are played in streaming video format (paragraph [0191]).

5. **Claims 6, 10-11, 32, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Riet (20070260521) in view of Kaneko et al., (20020077899) further in view of Shuster (20020082926).**

**As per claim 6**, the Van Der Riet and Kaneko combination discloses the claimed invention as in claim 1. The combination does not explicitly disclose the user receives the media content without paying a fee for the media content.

However, Shuster discloses the user receives the media content without paying a fee for the media content (paragraphs [0005-0006]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add Shuster's free media content to the combination's sponsored media content. One would be motivated to do this in order to additional avenues for advertisers to promote their products.

**As per claim 10**, Shuster further discloses the sponsor passes the one or more advertisements to an intermediary distributor, and wherein the intermediary distributor delivers the one or more advertisements to the user upon receiving the one or more advertisements from the sponsor (Paragraphs [0005-0006]).

**As per claim 11**, Shuster further discloses the intermediary distributor categories the one or more advertisements and delivers the one or more advertisements based on one or more specifications of the sponsor (paragraphs [0005-0006]).

**As per claim 32**, Shuster further discloses the system is configured to enable the authorized downloading of media content to one or more users without requiring a

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fee from the one or more users for the media content after the one or more users play the one or more advertisements in their entirety (paragraphs [0005-0006]).

**As per claim 39**, Shuster further discloses a sixth tool that maintains a number of credits in a user's account based on a number of advertisements played and a number of downloaded media content, wherein the playing of an advertisement adds credits to the user's account and the downloading of media content deducts credits from the user's account (paragraph [0012]).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN L. BROWN whose telephone number is (571)270-5109. The examiner can normally be reached on Monday - Thursday 7:30 AM to 5:00 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571 272 6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALB

/Arthur Duran/  
Primary Examiner, Art Unit 3622